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SENATE BILL 453

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Pete Campos

AN ACT

RELATING TO PROFESSIONAL LICENSING; AMENDING AND ENACTING
SECTIONS OF THE DENTAL HEALTH CARE ACT; AMENDING A SECTION OF
THE IMPAIRED DENTISTS AND DENTAL HYGIENISTS ACT; CLARIFYING
DEFINITIONS; AMENDING LICENSURE PROVISIONS; AMENDING THE NEW
MEXICO BOARD OF DENTAL HEALTH CARE'S RULEMAKING AUTHORITY;
EXTENDING THE SUNSET DATE OF AND RENAMING THE NEW MEXICO BOARD
OF DENTAL HEALTH CARE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-5A-2 NMSA 1978 (being Laws 1994,
Chapter 55, Section 2) is amended to read:

"61-5A-2. PURPOSE. --

A. In the interest of the public health, safety and
welfare and to protect the public from the improper,
unprofessional, incompetent and unlawful practice of dentistry

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1 and dental hygiene, it is necessary to provide laws and
2 regulations controlling the granting and use of the privilege
3 to practice dentistry and dental hygiene and to establish a
4 board of [~~dental health care~~] dentistry and a dental hygienists
5 committee to implement and enforce those laws and regulations.

6 B. The primary duties of the New Mexico board of
7 [~~dental health care~~] dentistry are to issue licenses to
8 qualified dentists and owners of dental practices, to certify
9 qualified dental assistants, to issue licenses to dental
10 hygienists through the dental hygienists committee, to
11 discipline incompetent or unprofessional dentists, dental
12 assistants, owners of dental practices and, through the dental
13 hygienists committee, dental hygienists and to aid in the
14 rehabilitation of impaired dentists and dental hygienists for
15 the purpose of protecting the public. "

16 Section 2. Section 61-5A-3 NMSA 1978 (being Laws 1994,
17 Chapter 55, Section 3) is amended to read:

18 "61-5A-3. DEFINITIONS. --As used in the Dental Health Care
19 Act:

20 A. "assessment" means the review and documentation
21 of the oral condition and the recognition and documentation of
22 deviations from the healthy condition, without a diagnosis to
23 determine the cause or nature of disease or its treatment;

24 [~~A.~~] B. "board" means the New Mexico board of
25 [~~dental health care~~] dentistry;

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1 ~~[B.-]~~ C. "certified dental assistant" means an
2 individual certified by the dental assistant national board;

3 D. "collaborative dental hygiene practice" means a
4 New Mexico licensed dental hygienist practicing according to
5 Subsections D, E and F of Section 61-5A-4 NMSA 1978;

6 ~~[C.-]~~ E. "committee" means the New Mexico dental
7 hygienists committee;

8 F. "consulting dentist" means a dentist who has
9 entered into an approved agreement to provide consultation and
10 create protocols with a collaborating dental hygienist and,
11 when required, to provide diagnosis and authorization for
12 services, in accordance with the rules and regulations of the
13 board and the committee;

14 ~~[D.-]~~ G. "dental assistant certified in expanded
15 functions" means a dental assistant who meets specific
16 qualifications set forth by rule of the board;

17 ~~[E.-]~~ H. "dental hygienist" means an individual who
18 has graduated and received a ~~[diploma]~~ degree from ~~[an~~
19 ~~accredited]~~ a dental hygiene educational program accredited by
20 the joint commission on dental accreditation, which provides a
21 minimum of two academic years of dental hygiene curriculum and
22 is an institution of higher education ~~[accredited by the~~
23 ~~American dental association commission on dental accreditation]~~
24 and, except as the context otherwise requires, who holds a
25 license to practice dental hygiene in New Mexico;

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1 [F-] I. "dental laboratory" means any place where
2 [~~bridges, crowns, dentures or other~~] dental restorative,
3 prosthodontic, cosmetic and therapeutic services or orthodontic
4 appliances are fabricated, altered or repaired by one or more
5 persons under the orders and authorization of a dentist;

6 [G-] J. "dental technician" means an individual,
7 other than a licensed dentist, who fabricates, alters, repairs
8 or assists in the fabrication, alteration or repair of
9 [~~bridges, crowns, dentures or other~~] dental restorative,
10 prosthodontic, cosmetic and therapeutic devices or orthodontic
11 appliances under the orders and authorization of a dentist;

12 [H-] K. "dentist" means an individual who has
13 graduated and received a [~~diploma~~] degree from a dental college
14 or school of dentistry [~~of~~] or a university that is accredited
15 by the [~~American dental association~~] joint commission on dental
16 accreditation and, except as the context otherwise requires,
17 who holds a license to practice dentistry in New Mexico;

18 [I-] L. "general supervision" means the
19 authorization by a dentist of the procedures to be used by a
20 dental hygienist, dental assistant or dental student and the
21 execution of the procedures in accordance with a dentist's
22 diagnosis and treatment plan at a time the dentist is not
23 physically present and in facilities as designated by rule of
24 the board; [~~and~~

25 J-] M. "indirect supervision" means that a dentist,

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1 or in certain settings a dental hygienist or dental assistant
2 certified in expanded functions, is present in the treatment
3 facility while authorized treatments are being performed by a
4 dental hygienist, dental assistant or dental student; and

5 N. "non-dentist owner" means an individual not
6 licensed as a dentist in New Mexico or a corporate entity not
7 owned by a majority interest of a New Mexico licensed dentist
8 that employs or contracts with a dentist or dental hygienist to
9 provide dental or dental hygiene services. "

10 Section 3. Section 61-5A-4 NMSA 1978 (being Laws 1994,
11 Chapter 55, Section 4, as amended) is amended to read:

12 "61-5A-4. SCOPE OF PRACTICE. --

13 A. As used in the Dental Health Care Act, "practice
14 of dentistry" means:

15 (1) the diagnosis, treatment, correction,
16 change, relief, prevention, prescription of remedy, surgical
17 operation and adjunctive treatment for any disease, pain,
18 deformity, deficiency, injury, defect, lesion or physical
19 condition involving both the functional and aesthetic aspects
20 of the teeth, gingivae, jaws and adjacent hard and soft tissue
21 of the oral and maxillofacial regions, including the
22 prescription or administration of any drug, medicine, biologic,
23 apparatus, brace, anesthetic or other therapeutic or diagnostic
24 substance or technique by an individual or his agent or
25 employee gratuitously or for any fee, reward, emolument or any

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1 other form of compensation whether direct or indirect;

2 (2) representation of an ability or
3 willingness to do any act mentioned in Paragraph (1) of this
4 subsection; [~~or~~]

5 (3) the review of dental insurance claims for
6 therapeutic appropriateness of treatment, including but not
7 limited to the interpretation of radiographs, photographs,
8 models, periodontal records and narratives;

9 (4) the offering of advice or authoritative
10 comment regarding the appropriateness of dental therapies, the
11 need for recommended treatment or the efficacy of specific
12 treatment modalities; or

13 [~~(3)~~] (5) with specific reference to the
14 teeth, gingivae, jaws or adjacent hard or soft tissues of the
15 oral and maxillofacial region in living persons, to propose,
16 agree or attempt to do or make an examination or give an
17 estimate of cost with intent to, or undertaking to:

18 (a) perform a physical evaluation of a
19 patient in an office or in a hospital, clinic or other medical
20 or dental facility prior to, incident to and appropriate to the
21 performance of any dental services or oral or maxillofacial
22 surgery;

23 (b) perform surgery, an extraction or
24 any other operation or to administer an anesthetic in
25 connection therewith;

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1 (c) diagnose or treat any condition,
2 disease, pain, deformity, deficiency, injury, lesion or other
3 physical condition;

4 (d) correct a malposition;

5 (e) treat a fracture;

6 (f) remove calcareous deposits;

7 (g) replace missing anatomy with an
8 artificial substitute;

9 (h) construct, make, furnish, supply,
10 reproduce, alter or repair an artificial substitute or
11 restorative or corrective appliance or place an artificial
12 substitute or restorative or corrective appliance in the mouth
13 or attempt to adjust it;

14 (i) give interpretations or readings of
15 dental [~~roentgenograms~~] radiographs; or

16 (j) do any other remedial, corrective or
17 restorative work.

18 B. As used in the Dental Health Care Act, "the
19 practice [~~as a~~] of dental [~~hygienist~~] hygiene" means the
20 application of the science of the prevention and treatment of
21 oral disease through the provision of educational, assessment,
22 preventive, clinical and other therapeutic services under the
23 general supervision of a dentist. "Dental hygiene" includes:

24 (1) prophylaxis, which is the treatment of
25 human teeth by removing from their surface calcareous deposits

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1 and stain, removing accumulated accretions and polishing the
2 surfaces of the teeth;

3 (2) removing diseased crevicular tissue;

4 (3) the application of pit and fissure
5 sealants without mechanical alteration of the tooth, fluorides
6 and other topical therapeutic and preventive agents;

7 (4) exposing and referring to oral
8 radiographs;

9 (5) screening to identify indications of oral
10 abnormalities;

11 (6) [~~preliminary~~] assessment of periodontal
12 conditions; and

13 (7) such other closely related services as
14 permitted by the rules and regulations of the committee and the
15 board.

16 C. In addition to performing dental hygiene as
17 defined in Subsection B of this section, dental hygienists who
18 have met such criteria as the committee shall establish and the
19 board ratify may administer local anesthesia under indirect
20 supervision of a dentist. Dental hygienists, so certified, may
21 on the specific written prescription of a dentist administer a
22 local anesthetic under the general supervision of that dentist,
23 if a qualified physician, who is a surgeon competent in the
24 head and neck or a specialist in emergency medicine, is
25 physically present in the facility and has supplied a

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1 documented agreement to provide emergency services as needed.

2 D. A New Mexico licensed dental hygienist may be
3 certified for collaborative dental hygiene practice in certain
4 practice settings and in accordance with the educational and
5 experience criteria established collaboratively by the
6 committee and the board. [~~The board may charge a fee not to~~
7 ~~exceed one hundred fifty dollars (\$150) for each application~~
8 ~~for certification for collaborative dental hygiene practice.~~]

9 E. For the purpose of this section, "collaborative
10 [~~practice of~~] dental hygiene practice" means the application of
11 the science of the prevention and treatment of oral disease
12 through the provision of educational, assessment, preventive,
13 clinical and other therapeutic services as specified in
14 Subsection B of this section in a cooperative working
15 relationship with a consulting dentist, [~~but without general~~
16 ~~supervision~~] as set forth by the rules [~~jointly~~] established
17 [~~by~~] and approved by both the board and the committee.

18 F. A dental hygienist that has been certified for a
19 collaborative practice in a cooperative working relationship
20 with a consulting dentist may practice without general
21 supervision in the following settings:

22 (1) dentally underserved areas as designated
23 by the department of health;

24 (2) federally qualified health centers as
25 designated by the United State department of health and human

1 services and other not-for-profit dental clinics that primarily
2 serve the poor and indigent;

3 (3) New Mexico licensed nursing facilities;
4 and

5 (4) government agencies engaged solely in
6 providing public health measures to prevent dental disease."

7 Section 4. Section 61-5A-5 NMSA 1978 (being Laws 1994,
8 Chapter 55, Section 5) is amended to read:

9 "61-5A-5. LICENSE REQUIRED- - EXEMPTIONS. - -

10 A. Unless licensed to practice as a dentist under
11 the Dental Health Care Act, no person shall:

12 (1) practice dentistry;

13 (2) use the title "dentist", "dental surgeon",
14 "oral surgeon" or any other title, abbreviation, letters,
15 figures, signs or devices that indicate the person is a
16 licensed dentist; or

17 (3) perform any of the acts enumerated under
18 the definition of the practice of dentistry as defined in the
19 Dental Health Care Act.

20 B. The following, under the stipulations described,
21 may practice dentistry or an area of dentistry without a New
22 Mexico dental license:

23 (1) regularly licensed physicians or surgeons
24 are not prohibited from extracting teeth or treating any
25 disease coming within the province of the practice of medicine;

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1 (2) New Mexico licensed dental hygienists may
2 provide those services within their scope of practice that are
3 also within the scope of the practice of dentistry;

4 (3) any dental student duly enrolled in an
5 accredited school of dentistry recognized by the board, while
6 engaged in educational programs offered by the school in
7 private offices, public clinics or educational institutions
8 within the state of New Mexico under the indirect supervision
9 of a licensed dentist;

10 (4) any dental hygiene or dental assisting
11 student duly enrolled in an accredited school of dental hygiene
12 or dental assisting engaged in procedures within or outside the
13 scope of dental hygiene that are part of the curriculum of that
14 program in the school setting and under the indirect
15 supervision of a faculty member of the accredited program who
16 is a licensed dentist, [faculty member of the accredited
17 program and in the school setting] dental hygienist or dental
18 assistant certified in the procedures being taught;

19 (5) unlicensed persons performing for a
20 licensed dentist merely mechanical work upon inert matter in
21 the construction, making, alteration or repairing of any
22 artificial dental substitute, dental restorative or corrective
23 appliance, when the casts or impressions for the work have been
24 furnished by a licensed dentist and where the work is
25 prescribed by a dentist pursuant to a written authorization by

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1 that dentist; ~~and]~~

2 (6) commissioned dental officers of the
3 uniformed forces of the United States and dentists providing
4 services to the United States public health service, the
5 veterans' administration of the United States or within
6 federally controlled facilities in the discharge of their
7 official duties provided that such persons who hold dental
8 licenses in New Mexico shall be subject to the provisions of
9 the Dental Health Care Act; and

10 (7) dental assistants performing adjunctive
11 services to the provision of dental care, under the indirect
12 supervision of a dentist, as determined by rule of the board if
13 such services are not within the practice of dental hygiene as
14 specifically listed in Subsection B of Section 61-5A-4 NMSA
15 1978, unless allowed in Subsection E of this section.

16 C. Unless licensed to practice as a dental
17 hygienist under the Dental Health Care Act, no person shall:

18 (1) practice as a dental hygienist;

19 (2) use the title "dental hygienist" or
20 abbreviation "R. D. H. " or any other title, abbreviation,
21 letters, figures, signs or devices that indicate the person is
22 a licensed dental hygienist; or

23 (3) perform any of the acts ~~[enumerated under~~
24 ~~the definition of]~~ defined as the practice of dental hygiene
25 ~~[as defined]~~ in the Dental Health Care Act.

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1 D. The following, under the stipulations described,
2 may practice dental hygiene or the area of dental hygiene
3 outlined without a New Mexico dental ~~hygienist~~ hygiene
4 license:

5 (1) students enrolled in an accredited dental
6 hygiene program engaged in procedures that are part of the
7 curriculum of that program and under the indirect supervision
8 of a licensed faculty member of the accredited program; ~~and~~

9 (2) dental assistants working under general
10 supervision who:

11 (a) expose dental radiographs after
12 being certified in expanded functions by the board;

13 (b) perform rubber cup coronal
14 polishing, which is not represented as a prophylaxis, having
15 satisfied the educational requirements as established by rules
16 of the board;

17 (c) apply fluorides as established by
18 rules of the board; and

19 (d) perform those other dental hygienist
20 functions as recommended to the board by the committee and set
21 forth by rule of the board; and

22 (3) dental assistants certified in expanded
23 functions, working under the indirect supervision of a dental
24 hygienist certified for collaborative practice and under the
25 protocols established in a collaborative practice agreement

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1 with a consulting dentist.

2 E. Dental assistants working under the indirect
3 supervision of a dentist and in accordance with the rules and
4 regulations established by the board may:

5 (1) expose dental radiographs;

6 (2) perform rubber cup coronal polishing that
7 is not represented as a prophylaxis;

8 (3) apply fluoride and pit and fissure
9 sealants without mechanical alteration of the tooth;

10 (4) perform those other dental hygienist
11 functions as recommended to the board by the committee and set
12 forth by rule of the board; and

13 (5) perform such other related functions that
14 are not expressly prohibited by statute or rules of the board.

15 F. Unless licensed as a dentist or non-dentist
16 owner, no individual or corporate entity shall:

17 (1) employ or contract with a dentist or
18 dental hygienist for the purpose of providing dental or dental
19 hygiene services as defined by their respective scopes of
20 practice; or

21 (2) enter into a managed care or other
22 agreement to provide dental or dental hygiene services in New
23 Mexico.

24 G. The following, under stipulations described, may
25 function as a non-dentist owner without a New Mexico license:

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- 1 (1) government agencies providing dental
- 2 services within federally controlled facilities;
- 3 (2) government agencies engaged solely in
- 4 providing public health measures to prevent dental disease;
- 5 (3) spouses of deceased licensed dentists or
- 6 dental hygienists for a period of one year following the death
- 7 of the licensee;
- 8 (4) accredited schools of dentistry, dental
- 9 hygiene and dental assisting providing dental services solely
- 10 in an educational setting;
- 11 (5) dental hygienists licensed in New Mexico
- 12 or corporate entities with a majority interest owned by a
- 13 dental hygienist licensed in New Mexico; and
- 14 (6) federally qualified health centers, as
- 15 designated by the United States department of health and human
- 16 services, providing dental services."

17 Section 5. Section 61-5A-7 NMSA 1978 (being Laws 1994,
18 Chapter 55, Section 7) is amended to read:

19 "61-5A-7. DENTAL AND DENTAL HYGIENE DISTRICTS
20 CREATED. --For the purpose of selecting members of the board and
21 the committee, there are created five districts composed of the
22 following counties [for]:

23 A. district I: San Juan, Rio Arriba, Taos,
24 Sandoval, McKinley and Cibola [~~Santa Fe and Los Alamos~~];

25 B. district II: Colfax, Union, Mora, Harding, San

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1 Miguel, [~~Curry~~] Quay [~~and~~], Guadalupe, Santa Fe and Los Alamos;

2 C. district III: Bernalillo, Valencia and
3 Torrance;

4 D. district IV: Catron, Socorro, Grant, Sierra,
5 Hidalgo, Luna, Dona Ana and Otero; and

6 E. district V: Lincoln, De Baca, Roosevelt,
7 Chaves, Eddy, Curry and Lea. "

8 Section 6. Section 61-5A-8 NMSA 1978 (being Laws 1994,
9 Chapter 55, Section 8) is amended to read:

10 "61-5A-8. BOARD CREATED. --

11 A. There is created the nine-member "New Mexico
12 board of [~~dental health care~~] dentistry". The board shall
13 consist of five dentists, two dental hygienists and two public
14 members. The dentists shall be actively practicing and have
15 been licensed practitioners and residents of New Mexico for a
16 period of five years preceding the date of appointment. The
17 dental hygienist members shall be members of the committee and
18 shall be elected annually to sit on the board by those sitting
19 on the committee. The appointed public members shall be
20 residents of New Mexico and shall have no financial interest,
21 direct or indirect, in the professions regulated in the Dental
22 Health Care Act.

23 B. The governor may appoint the dentist members
24 from a list of names submitted by the New Mexico dental
25 association. There shall be one member from each district.

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1 All board members shall serve until their successors have been
2 appointed. No more than one member [~~shall~~] may be employed by
3 or receive remuneration from a dental or dental hygiene
4 educational institution.

5 C. Appointments for dentists and public members
6 shall be for terms of five years. Dentists' appointments shall
7 be made so that the term of one dentist member expires on July
8 1 of each year. Public members' five-year terms begin at the
9 date of appointment.

10 D. Any board member failing to attend three board
11 or committee meetings, either regular or special, during the
12 board member's term shall automatically be removed as a member
13 of the board unless excused from attendance by the board for
14 good cause shown. Members of the board not sitting on the
15 committee shall not be required or allowed to attend committee
16 disciplinary hearings.

17 E. No board member shall serve more than two full
18 terms on any state-chartered board whose responsibility
19 includes the regulation of practice or licensure of dentistry
20 or dental hygiene in New Mexico. A partial term of three or
21 more years shall be considered a full term.

22 F. In the event of any vacancy, the secretary of
23 the board shall immediately notify the governor, the board and
24 [~~the~~] committee members and the New Mexico dental association
25 of the reason for its occurrence and action taken by the board,

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1 so as to expedite appointment of a new board member.

2 G. The board shall meet [~~quarterly~~] at least four
3 times every year and no more than two meetings shall be public
4 rules hearings. Regular meetings shall not be more than one
5 hundred twenty days apart. The board may also hold special
6 meetings and emergency meetings in accordance with rules of the
7 board upon written notice to all members of the board and the
8 committee.

9 H. Members of the board shall be reimbursed as
10 provided in the Per Diem and Mileage Act and shall receive no
11 other compensation, perquisite or allowance; however, the
12 secretary-treasurer may be compensated at the discretion of the
13 board.

14 I. A simple majority of the board members currently
15 serving shall constitute a quorum, provided at least two of
16 that quorum are not dentist members and three are dentist
17 members.

18 J. The board shall elect officers annually as
19 deemed necessary to administer its duties and as provided in
20 its rules and regulations. "

21 Section 7. Section 61-5A-9 NMSA 1978 (being Laws 1994,
22 Chapter 55, Section 9) is amended to read:

23 "61-5A-9. COMMITTEE CREATED. --

24 A. There is created the [~~seven-member~~] nine-member
25 "New Mexico dental hygienists committee". The committee shall

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1 consist of five dental hygienists, [~~one dentist~~] two dentists
2 and [~~one public member~~] two public members. The dental
3 hygienists [~~must~~] shall be actively practicing and have been
4 licensed practitioners and residents of New Mexico for a period
5 of five years preceding the date of their appointment. The
6 [~~dentist~~] dentists and public [~~member~~] members shall be members
7 of the board and shall be elected annually to sit on the
8 committee by those members sitting on the board.

9 B. The governor may appoint the dental hygienists
10 from a list of names submitted by the New Mexico dental
11 hygienists' association. There [~~may~~] shall be one member from
12 each district. [~~The list submitted shall consist, whenever~~
13 ~~possible, of names of dental hygienists in the district being~~
14 ~~considered but may also include names of dental hygienists~~
15 ~~at large. No more than two dental hygienists shall serve from~~
16 ~~the same district at one time.] All members shall serve until
17 their successors have been appointed. No more than one member
18 [~~shall~~] may be employed by or receive remuneration from a
19 dental or dental hygiene educational institution.~~

20 C. Appointments for dental hygienist members shall
21 be for terms of five years. Appointments shall be made so that
22 the term of one dental hygienist expires on July 1 of each
23 year.

24 D. Any committee member failing to attend three
25 committee or board meetings, either regular or special, during

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1 the committee member's term shall automatically be removed as a
2 member of the committee unless excused from attendance by the
3 committee for good cause shown. Members of the committee not
4 sitting on the board shall not be required or allowed to attend
5 board disciplinary hearings.

6 E. No committee member shall serve more than two
7 full terms on any state-chartered board whose responsibility
8 includes the regulation of practice or licensure of dentistry
9 or dental hygiene in New Mexico. A partial term of three or
10 more years shall be considered a full term.

11 F. In the event of any vacancy, the secretary of
12 the committee shall immediately notify the governor, the
13 committee and board members and the New Mexico dental
14 hygienists' association of the reason for its occurrence and
15 action taken by the committee, so as to expedite appointment of
16 a new committee member.

17 G. The committee shall meet [~~quarterly~~] at least
18 four times every year and no more than two meetings shall be
19 public rules hearings. Regular meetings shall not be more than
20 one hundred twenty days apart. The committee may also hold
21 special meetings and emergency meetings in accordance with the
22 rules and regulations of the board and committee, upon written
23 notification to all members of the committee and the board.

24 H. Members of the committee shall be reimbursed as
25 provided in the Per Diem and Mileage Act and shall receive no

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1 other compensation, perquisite or allowance.

2 I. A simple majority of the committee members
3 currently serving shall constitute a quorum, provided at least
4 ~~[one]~~ two of that quorum ~~[is]~~ are not ~~[a]~~ hygienist ~~[member]~~
5 members and three are hygienist members.

6 J. The committee shall elect officers annually as
7 deemed necessary to administer its duties and as provided in
8 rules and regulations of the board and committee. "

9 Section 8. Section 61-5A-10 NMSA 1978 (being Laws 1994,
10 Chapter 55, Section 10) is amended to read:

11 "61-5A-10. POWERS AND DUTIES OF THE BOARD AND
12 COMMITTEE. --In addition to any other authority provided by law,
13 the board or the committee shall have the power to:

14 A. enforce and administer the provisions of the
15 Dental Health Care Act;

16 B. adopt, publish, ~~[and]~~ file and revise, in
17 accordance with the Uniform Licensing Act and the State Rules
18 Act, all rules and regulations as may be necessary to:

19 (1) regulate the examination and licensure of
20 dentists and, through the committee, regulate the examination
21 and licensure of dental hygienists;

22 (2) provide for the examination and
23 certification of dental assistants by the board;

24 (3) provide for the regulation of dental
25 technicians by the board; ~~[and]~~

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1 (4) regulate the practice of dentistry, dental
2 assisting and, through the committee, regulate the practice of
3 dental hygiene; and

4 (5) provide for the regulation and licensure
5 of non-dentist owners by the board;

6 C. adopt and use a seal;

7 D. administer oaths to all applicants, witnesses
8 and others appearing before the board or the committee, as
9 appropriate;

10 E. keep an accurate record of all meetings,
11 receipts and disbursements;

12 F. grant, deny, review, suspend and revoke licenses
13 and certificates to practice dentistry, dental assisting and,
14 through the committee, dental hygiene and censure, reprimand,
15 fine and place on probation and stipulation dentists, dental
16 assistants and, through the committee, dental hygienists, in
17 accordance with the Uniform Licensing Act for any cause stated
18 in the Dental Health Care Act;

19 G. grant, deny, review, suspend and revoke licenses
20 to own dental practices and censure, reprimand, fine and place
21 on probation and stipulation non-dentist owners, in accordance
22 with the Uniform Licensing Act, for any cause stated in the
23 Dental Health Care Act;

24 [~~G.~~] H. maintain records [in which] of the name,
25 address, [~~and~~] license number and such other demographic data

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1 as may serve the needs of the board of all licensees [~~shall be~~
2 ~~recorded~~], together with a record of all license renewals,
3 suspensions, revocations, probations, stipulations, censures,
4 reprimands and fines. The board shall make available composite
5 reports of demographic data, but shall limit public access to
6 information regarding individuals to their names, addresses,
7 license numbers and license actions or as required by statute;

8 [~~H.~~] I. hire staff and administrators as necessary
9 to carry out the provisions of the Dental Health Care Act;

10 [~~I.~~] J. establish ad hoc committees whose members
11 shall be appointed by the chairman with the advice and consent
12 of the board or committee and shall include at least one member
13 of the board or committee, as it deems necessary for carrying
14 on its business;

15 [~~J.~~] K. have the authority to pay per diem and
16 mileage to individuals who are appointed by the board or the
17 committee to serve on ad hoc committees;

18 [~~K.~~] L. have the authority to hire or contract with
19 investigators to investigate possible violations of the Dental
20 Health Care Act;

21 [~~L.~~] M. have the authority to hire an attorney to
22 give advice and counsel in regard to any matter connected with
23 the duties of the board [~~and~~] or the committee, to represent
24 the board or the committee in any legal proceedings and to aid
25 in the enforcement of the laws in relation to the Dental Health

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1 Care Act and to fix the compensation to be paid to such
2 attorney; provided, however, such attorney shall be compensated
3 from the funds of the board;

4 [M-] N. have the authority to issue investigative
5 subpoenas prior to the issuance of a notice of contemplated
6 action for the purpose of investigating complaints against
7 dentists, dental assistants and, through the committee, dental
8 hygienists licensed under the Dental Health Care Act; and

9 [N-] O. establish continuing education or continued
10 competency requirements for dentists, certified dental
11 assistants in expanded functions, dental technicians and,
12 through the committee, dental hygienists. "

13 Section 9. Section 61-5A-12 NMSA 1978 (being Laws 1994,
14 Chapter 55, Section 12, as amended) is amended to read:

15 "61-5A-12. DENTISTS--REQUIREMENTS FOR LICENSURE--
16 SPECIALTY LICENSE. --

17 A. All applicants for licensure as a dentist shall
18 have graduated and received a [~~diploma~~] degree from an
19 accredited dental college or school of dentistry of a
20 university that is accredited by the [~~American dental~~
21 ~~association~~] joint commission on dental accreditation and have
22 passed the written portion of the dental examination
23 administered by the joint commission on national dental
24 examinations of the American dental association or, if the test
25 is not available, another written examination determined by the

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1 board.

2 B. Applicants for a general license to practice
3 dentistry [~~licensure~~] by examination shall be required, in
4 addition to the requirements set forth in Subsection A of this
5 section, to pass a test covering the laws and [~~regulations~~]
6 rules for the practice of dentistry in New Mexico. Written
7 examinations shall be supplemented by the board or its agents
8 by administering to each applicant a practical or clinical
9 examination that reasonably tests the applicant's
10 qualifications to practice general dentistry. Upon an
11 applicant passing the written and clinical examinations and
12 payment in advance of the necessary fees, the board shall issue
13 a license to practice dentistry.

14 [~~C. The board shall issue a general dentistry~~
15 ~~license by credentials without a practical or clinical~~
16 ~~examination to an applicant who is duly licensed by a clinical~~
17 ~~examination as a dentist under the laws of another state or~~
18 ~~territory of the United States and whose license is active and~~
19 ~~in good standing in that jurisdiction and in good standing in~~
20 ~~any other jurisdiction where the applicant has held a license;~~
21 ~~provided there are no proceedings pending against the~~
22 ~~applicant's license and that a standard national practitioner~~
23 ~~data bank or other nationally recognized data resource that~~
24 ~~records actions against a dentist within the United States does~~
25 ~~not reveal any activities that could reasonably be construed to~~

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1 ~~constitute evidence of danger to patients. The applicant shall~~
2 ~~otherwise meet the requirements of the Dental Health Care Act,~~
3 ~~including payment of appropriate fees and passing an~~
4 ~~examination covering the laws and regulations of the practice~~
5 ~~of dentistry in New Mexico.]~~

6 C. The board may issue a general license to
7 practice dentistry, by credentials, without a practical or
8 clinical examination to an applicant who is duly licensed by a
9 clinical examination as a dentist under the laws of another
10 state or territory of the United States; provided that license
11 is active and that all dental licenses that individual
12 possesses have been in good standing for five years prior to
13 application. The credentials must show that no dental board
14 actions have been taken during the five years prior to
15 application; that no proceedings are pending in any states in
16 which the applicant has had a license in the five years prior
17 to application; and that a review of public records, the
18 national practitioners data bank or other nationally recognized
19 data resources that record actions against a dentist in the
20 United States does not reveal any activities or unacquitted
21 civil or criminal charges that could reasonably be construed to
22 constitute evidence of danger to patients, including acts of
23 moral turpitude.

24 D. The board may issue a general license to
25 practice dentistry [license] by credentials to an applicant who

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1 meets the requirements, including payment of appropriate fees
2 and the passing of an examination covering the laws and rules
3 of the practice of dentistry in New Mexico, of the Dental
4 Health Care Act and rules promulgated pursuant to that act, and
5 who:

6 (1) has maintained a uniform service practice
7 in the United States military or public health service for
8 three years immediately preceding the application; or

9 (2) is duly licensed by examination as a
10 dentist pursuant to the laws of another state or territory of
11 the United States.

12 E. The board may issue a specialty license by
13 examination to an applicant who has passed a clinical and
14 written examination given by the board or its examining agents
15 that covers the applicant's specialty. The applicant shall
16 have a postgraduate degree or certificate from an accredited
17 dental college, school of dentistry of a university or other
18 residency program that is accredited by the [~~American dental~~
19 ~~association~~] joint commission on dental accreditation in one of
20 the specialty areas of dentistry recognized by the American
21 dental association. The applicant shall also meet all other
22 requirements as established by rules of the board, which shall
23 include an examination covering the laws and [~~regulations~~]
24 rules of the practice of dentistry in New Mexico. A specialty
25 license limits the licensee to practice only in that specialty

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1 area.

2 ~~[F. The board may issue a specialty license by~~
3 ~~credentials to an applicant who is duly licensed by examination~~
4 ~~as a dentist under the laws of another state or territory of~~
5 ~~the United States and has a postgraduate degree or certificate~~
6 ~~from an accredited dental college, school of dentistry of a~~
7 ~~university or other residency program that is accredited by the~~
8 ~~American dental association commission on dental accreditation~~
9 ~~in one of the specialty areas of dentistry recognized by the~~
10 ~~American dental association. The applicant shall also meet all~~
11 ~~other qualifications as deemed necessary by rules of the board,~~
12 ~~which shall include an examination covering the laws and rules~~
13 ~~of the practice of dentistry in New Mexico. A specialty~~
14 ~~license limits the licensee to practice only in that specialty~~
15 ~~area.]~~

16 F. The board may issue a specialty license, by
17 credentials, without a practical or clinical examination to an
18 applicant who is duly licensed by a clinical examination as a
19 dentist under the laws of another state or territory of the
20 United States and who has a postgraduate degree or certificate
21 from an accredited dental college, school of dentistry of a
22 university or other residency program that is accredited by the
23 joint commission on dental accreditation in one of the
24 specialty areas of dentistry recognized by the American dental
25 association; provided that license is active and that all

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1 dental licenses that individual possesses have been in good
2 standing for five years prior to application. The credentials
3 must show that no dental board actions have been taken during
4 the five years prior to application; that no proceedings are
5 pending in any states in which the applicant has had a license
6 in the five years prior to application; and that a review of
7 public records, the national practitioners data bank or other
8 nationally recognized data resources that record actions
9 against a dentist in the United States does not reveal any
10 activities or unacquitted civil or criminal charges that could
11 reasonably be construed to constitute evidence of danger to
12 patients, including acts of moral turpitude. The applicant
13 shall also meet all other qualifications as deemed necessary by
14 rules of the board, which shall include an examination covering
15 the laws and rules of the practice of dentistry in New Mexico.
16 A specialty license limits the licensee to practice only in
17 that specialty area."

18 Section 10. Section 61-5A-13 NMSA 1978 (being Laws 1994,
19 Chapter 55, Section 13, as amended) is amended to read:

20 "61-5A-13. DENTAL HYGIENIST LICENSURE. --

21 A. Applicants for licensure shall have graduated
22 and received a ~~[diploma]~~ degree from an accredited dental
23 hygiene educational program that provides a minimum of two
24 academic years of dental hygiene curriculum and is a post-
25 secondary educational institution accredited by the ~~[American~~

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1 ~~dental association~~] joint commission on dental accreditation
2 and shall have passed the written portion of the dental hygiene
3 examination administered by the joint commission on national
4 dental examinations of the American dental association or, if
5 this test is not available, another written examination
6 determined by the committee.

7 B. Applicants for licensure by examination shall be
8 required, in addition to the requirements set forth in
9 Subsection A of this section, to pass a written examination
10 covering the laws and rules for practice in New Mexico. Each
11 written examination shall be supplemented by a practical or
12 clinical examination administered by the committee or its
13 agents that reasonably tests the applicant's qualifications to
14 practice as a dental hygienist. Upon an applicant passing the
15 written and clinical examinations, the board, upon
16 recommendation of the committee, shall issue a license to
17 practice as a dental hygienist.

18 C. The board, upon the committee's recommendation,
19 shall issue a license to practice as a dental hygienist by
20 credentials without examination, including practical or
21 clinical examination, to an applicant who is a duly licensed
22 dental hygienist by examination under the laws of another state
23 or territory of the United States and whose licence is in good
24 standing for the two previous years in that jurisdiction and if
25 the applicant otherwise meets all other requirements of the

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1 Dental Health Care Act, including payment of appropriate fees
2 and passing an examination covering the laws and rules
3 pertaining to practice as a dental hygienist in New Mexico. "

4 Section 11. Section 61-5A-14 NMSA 1978 (being Laws 1994,
5 Chapter 55, Section 14) is amended to read:

6 "61-5A-14. TEMPORARY LICENSURE. -- The [~~secretary-treasurer~~
7 ~~of the~~] board or the committee may issue a temporary license to
8 practice dentistry or dental hygiene to any applicant who is
9 licensed to practice dentistry or dental hygiene in another
10 state or territory of the United States and who is otherwise
11 qualified to practice dentistry or dental hygiene in this
12 state. The following provisions shall apply:

13 A. the applicant [~~must~~] shall hold a valid license
14 in good standing in another state or territory of the United
15 States;

16 B. the applicant shall practice dentistry or dental
17 hygiene under the sponsorship of or in association with a
18 licensed New Mexico dentist or dental hygienist;

19 C. the temporary license may be issued for those
20 activities as stipulated by the board or committee in the rules
21 and regulations of the board. It may be issued upon written
22 application of the applicant when accompanied by such proof of
23 qualifications as the secretary-treasurer of the board or
24 committee, in [~~their~~] his discretion, may require. Temporary
25 licensees shall engage in only those activities specified on

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1 the temporary license for the time designated, and the
2 temporary license shall identify the licensed New Mexico
3 dentist or dental hygienist who will sponsor or associate with
4 the applicant during the time the applicant practices dentistry
5 or dental hygiene in New Mexico;

6 D. the sponsoring or associating dentist or dental
7 hygienist shall submit an affidavit attesting to the
8 qualifications of the applicant and the activities the
9 applicant will perform;

10 E. the temporary license shall be issued for a
11 period not to exceed twelve months and may be [reviewed]
12 renewed upon application and payment of required fees;

13 F. the application for a temporary license under
14 this section shall be accompanied by a license fee; and

15 G. the temporary licensee shall be required to
16 comply with the Dental Health Care Act and all rules and
17 regulations promulgated pursuant thereto."

18 Section 12. A new section of the Dental Health Care Act
19 is enacted to read:

20 "[NEW MATERIAL] NON-DENTIST OWNER--EMPLOYING OR
21 CONTRACTING FOR DENTAL SERVICES.--

22 A. A person, corporation or agency that desires to
23 function as a non-dentist owner in New Mexico shall apply to
24 the board for the proper license and shall adhere to the
25 requirements, re-licensure criteria and fees as established by

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1 the rules and regulations of the board.

2 B. Unless licensed as a dentist or non-dentist
3 owner, an individual or corporate entity shall not:

4 (1) employ or contract with a dentist or
5 dental hygienist for the purpose of providing dental or dental
6 hygiene services as defined by their respective scopes of
7 practice; or

8 (2) enter into a managed care or other
9 agreement to provide dental or dental hygiene services in New
10 Mexico. "

11 Section 13. Section 61-5A-16 NMSA 1978 (being Laws 1994,
12 Chapter 55, Section 16) is amended to read:

13 "61-5A-16. [~~LICENSES~~] LICENSE AND CERTIFICATE RENEWALS. --

14 A. Except as provided in Subsection I of this
15 section, all licensees shall be required to renew their
16 licenses triennially as established in rules and regulations of
17 the board.

18 B. All dental assistants certified in expanded
19 functions shall be required to renew their certificates
20 triennially as established in rules and regulations of the
21 board.

22 C. The board or committee may establish a method to
23 provide for staggered triennial terms and may prorate triennial
24 renewal fees and impaired dentist and dental hygienist fees
25 until staggered triennial renewal is established. The fact

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1 that a [~~practitioner~~] licensee has not received a renewal form
2 from the board or committee shall not relieve the
3 [~~practitioner~~] licensee of the duty to renew the license or
4 certificate nor shall such omission on the part of the board or
5 committee operate to exempt the [~~practitioner~~] licensee from
6 the penalties for failure to renew the [~~practitioner's~~]
7 licensee's license or certificate.

8 D. All [~~licensed practitioners~~] licensees shall pay
9 a triennial renewal fee and an impaired dentist and dental
10 hygienist fee, and all [~~practitioners~~] licensees shall return a
11 completed renewal application form that includes proof of
12 continuing education or continued competency.

13 E. Each application for triennial renewal of
14 license shall state the [~~practitioner's~~] licensee's full name,
15 business address, the date and number of the license and all
16 other information requested by the board or committee.

17 F. Any [~~practitioner~~] licensee who fails to submit
18 an application for triennial renewal on or before July 1 but
19 who submits an application for triennial renewal within thirty
20 days thereafter shall be assessed a late fee.

21 G. Any [~~practitioner~~] licensee who fails to submit
22 application for triennial renewal between thirty and sixty days
23 of the July 1 deadline may have [~~their~~] his license or
24 certificate suspended. If the [~~practitioner~~] licensee renews
25 by that time, the licensee shall be assessed a cumulative late

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1 fee.

2 H. The board or the committee may summarily revoke,
3 for nonpayment of fees or failure to comply with continuing
4 education or continued competency requirements, the license or
5 certificate of any [~~practitioner~~] licensee or certificate
6 holder who has failed to renew his license or certificate on or
7 before August 31.

8 I. A license for a non-dentist owner shall be
9 renewed triennially as established by rules. An application
10 for renewal of a non-dentist owner license shall state the
11 name, business address, date and number of the license and all
12 other information as required by rule of the board. If a non-
13 dentist owner fails to submit the application for renewal of
14 the license by July 1, the board may assess a late fee. If the
15 non-dentist owner fails to submit the application for a renewal
16 license within sixty days of the July 1 renewal deadline, the
17 board may suspend the license. The license of a non-dentist
18 owner may be summarily revoked by the board for nonpayment of
19 fees.

20 J. Assessment of fees pursuant to this section is
21 not subject to the Uniform Licensing Act."

22 Section 14. Section 61-5A-17 NMSA 1978 (being Laws 1994,
23 Chapter 55, Section 17) is amended to read:

24 "61-5A-17. RETIREMENT AND INACTIVE STATUS. --
25 REACTIVATION. --

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1 A. Any dentist or dental hygienist who wishes to
2 retire from the practice of dentistry or dental hygiene shall
3 meet all requirements for retirement as set by rules and
4 ~~[regulation]~~ regulations of the board and the committee. The
5 licensee shall notify the board or the committee in writing
6 before the expiration of the ~~[practitioner's]~~ licensee's
7 current license, and the secretary of the board or the
8 committee shall acknowledge the ~~[receipts of such]~~ receipt of
9 notice and record the same. If, within a period of ~~[five]~~
10 three years from the date of retirement, the dentist or dental
11 hygienist wishes to resume practice, the applicant shall so
12 notify the board or the committee in writing and give proof of
13 completing all requirements as prescribed by rules and
14 regulations of the board and the committee to reactivate the
15 license.

16 B. At any time during the three-year period
17 following retirement, a dentist or dental hygienist with a
18 retired New Mexico license may request in writing to the board
19 or the committee that his license be placed in inactive status.
20 Upon the receipt of the application and fees as determined by
21 the board or the committee and with the approval of the board
22 or the committee, the license may be placed in inactive status.

23 C. A licensee whose license has been placed in
24 inactive status may not engage in any of the activities
25 contained within the scope of practice of dentistry or dental

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1 hygiene in New Mexico described in Section 61-5A-4 NMSA 1978.

2 D. Licensees with inactive licenses must renew
3 their licenses triennially and comply with all the requirements
4 set by the board and the committee.

5 E. If a licensee with an inactive license wishes to
6 resume the active practice of dentistry or dental hygiene, the
7 licensee must notify the board or the committee in writing and
8 provide proof of completion of all requirements to reactivate
9 the license as prescribed by rule of the board or the
10 committee. Upon payment of all fees due, the board may
11 reactivate the license and the licensee may resume the practice
12 of dentistry or dental hygiene subject to any stipulations of
13 the board or the committee.

14 F. Inactive licenses must be reactivated or
15 permanently retired within nine years of having been placed in
16 inactive status.

17 G. Assessment of fees pursuant to this section is
18 not subject to the Uniform Licensing Act."

19 Section 15. Section 61-5A-18 NMSA 1978 (being Laws 1994,
20 Chapter 55, Section 18) is amended to read:

21 "61-5A-18. PRACTICING WITHOUT A LICENSE--PENALTY.--

22 A. Any person who practices dentistry or who
23 attempts to practice dentistry without first complying with the
24 provisions of the Dental Health Care Act and without being the
25 holder of a license entitling the practitioner to practice

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1 dentistry in New Mexico is guilty of a fourth degree felony and
2 upon conviction shall be sentenced ~~[under}~~ pursuant to the
3 provisions of the Criminal Sentencing Act to imprisonment for a
4 definite period not to exceed eighteen months and, in the
5 discretion of the sentencing court, to a fine not to exceed
6 five thousand dollars (\$5,000), or both. Each occurrence of
7 practicing dentistry or attempting to practice dentistry
8 without complying with the Dental Health Care Act shall be a
9 separate violation.

10 B. Any person who practices as a dental hygienist
11 or who attempts to practice as a dental hygienist without first
12 complying with the provisions of the Dental Health Care Act and
13 without being the holder of a license entitling the
14 practitioner to practice as a dental hygienist in New Mexico is
15 guilty of a ~~[misdemeanor and upon conviction shall be sentenced~~
16 ~~under the provisions of the Criminal Sentencing Act to~~
17 ~~imprisonment for a definite period not to exceed one year and,~~
18 ~~in the discretion of the sentencing court, to a fine not to~~
19 ~~exceed one thousand dollars (\$1,000), or both]~~ fourth degree
20 felony and upon conviction shall be sentenced pursuant to the
21 provisions of the Criminal Sentencing Act to imprisonment for a
22 definite period not to exceed eighteen months and, in the
23 discretion of the sentencing court, to a fine not to exceed
24 five thousand dollars (\$5,000), or both. Each occurrence of
25 practicing as a dental hygienist or attempting to practice as a

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1 dental hygienist without complying with the Dental Health Care
2 Act shall be a separate violation.

3 C. A person that functions or attempts to function
4 as a non-dentist owner or who is an officer of a corporate
5 entity that functions or attempts to function as a non-dentist
6 owner in New Mexico without first complying with the provisions
7 of the Dental Health Care Act and without being the holder of a
8 license entitling the practitioner to function as a non-dentist
9 owner is guilty of a misdemeanor and upon conviction shall be
10 sentenced pursuant to the provisions of the Criminal Sentencing
11 Act to imprisonment for a definite period not to exceed one
12 year and, in the discretion of the sentencing court, to a fine
13 not to exceed one thousand dollars (\$1,000), or both. Each
14 occurrence of functioning as a non-dentist owner without
15 complying with the Dental Health Care Act shall be a separate
16 violation.

17 [~~C.~~] D. The attorney general or district attorney
18 shall prosecute all violations of the Dental Health Care Act.

19 [~~D.~~] E. Upon conviction of any person for violation
20 of any provision of the Dental Health Care Act, the convicting
21 court may, in addition to the penalty provided in this section,
22 enjoin [~~him~~] the person from any further or continued
23 violations of the Dental Health Care Act and enforce the order
24 of contempt proceedings. "

25 Section 16. Section 61-5A-20 NMSA 1978 (being Laws 1994,

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1 Chapter 55, Section 20) is amended to read:

2 "61-5A-20. FEES. --The board and the committee shall
3 establish a schedule of reasonable fees not to exceed the
4 following:

	<u>Dentists</u>	<u>Dental Hygienists</u>
5		
6 A. licensure by examination	\$1,500	\$1,000
7 B. licensure by credential	\$3,000	\$1,500
8 C. specialty license by		
9 examination	\$1,500	
10 D. specialty license by		
11 credential	\$3,000	
12 E. temporary license		
13 48 [hour] <u>hours</u>	\$ 50	\$ 50
14 six months	\$ 300	\$ 200
15 12 months	\$ 450	\$ 300
16 F. application for		
17 certification in local		
18 anesthesia		\$ 40
19 G. examination in local		
20 anesthesia		\$ 150
21 H. triennial license renewal	\$ [450] <u>600</u>	\$ [300] <u>450</u>
22 I. late renewal	\$ 100	\$ 100
23 J. reinstatement of license	\$ 450	\$ 300
24 K. administrative fees	\$ [200] <u>300</u>	\$ [200] <u>300</u>
25 L. impaired dentist <u>or</u>		

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1 dental hygienist \$ 150 \$ 75

2 M assistant certificate \$ 100

3 N. application for certification for

4 collaborative practice \$ 150

5 O. annual renewal for

6 collaborative practice \$ 50

7 P. application for inactive

8 status \$ 50 \$ 50

9 Q. triennial renewal of

10 inactive license \$ 90 \$ 90

11 Non-dentist Owners

12 R. non-dentist owners license (initial) \$ 300

13 S. non-dentist owners license triennial renewal \$ 150. "

14 Section 17. Section 61-5A-21 NMSA 1978 (being Laws 1994,
15 Chapter 55, Section 21) is amended to read:

16 "61-5A-21. DISCIPLINARY PROCEEDINGS [~~JUDICIAL~~
17 ~~REVIEW~~]- - APPLICATION OF UNIFORM LICENSING ACT. - -

18 A. In accordance with the Uniform Licensing Act and
19 rules and regulations of the board, the board and committee may
20 fine and may deny, revoke, suspend, stipulate or otherwise
21 limit any license or certificate, including those of licensed
22 non-dentist owners, held or applied for under the Dental Health
23 Care Act, upon findings by the board or the committee that the
24 licensee, certificate holder or applicant:

25 (1) is guilty of fraud or deceit in procuring

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1 or attempting to procure a license or certificate;

2 (2) has been convicted of a crime punishable
3 by incarceration in a federal prison or state penitentiary;
4 provided a copy of the record of conviction, certified to by
5 the clerk of the court entering the conviction, shall be
6 conclusive evidence of such conviction;

7 (3) is guilty of gross incompetence or gross
8 negligence, as defined by regulations of the board, in the
9 practice of dentistry, dental hygiene or dental assisting;

10 (4) is habitually intemperate or is addicted
11 to the use of habit-forming drugs or is addicted to any vice to
12 such degree as to render the licensee unfit to practice;

13 (5) is guilty of unprofessional conduct as
14 defined by rule or regulation;

15 (6) is guilty of any violation of the
16 Controlled Substances Act;

17 (7) has violated any provisions of the Dental
18 Health Care Act or rule or regulation of the board or the
19 ~~commit~~tee;

20 (8) is guilty of willfully or negligently
21 practicing beyond the scope of [~~practice~~] licensure;

22 (9) is guilty of practicing dentistry or
23 dental hygiene without a license or aiding or abetting the
24 practice of dentistry or dental hygiene by a person not
25 licensed under the Dental Health Care Act;

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1 (10) is guilty of obtaining or attempting to
2 obtain any fee by fraud or misrepresentation or has otherwise
3 acted in a manner or by conduct likely to deceive, defraud or
4 harm the public;

5 (11) is guilty of patient abandonment;

6 (12) is guilty of failing to report to the
7 board any adverse action taken against the licensee by a
8 licensing authority, peer review body, malpractice insurance
9 carrier or other entity as defined in rules and regulations of
10 the board and the committee;

11 (13) has had a license, certificate or
12 registration to practice as a dentist or dental hygienist
13 revoked, suspended, denied, stipulated or otherwise limited in
14 any jurisdiction, territory or possession of the United States
15 or another country for actions of the licensee similar to acts
16 described in this subsection. A certified copy of the decision
17 of the jurisdiction taking such disciplinary action will be
18 conclusive evidence; or

19 (14) has failed to furnish the board, its
20 investigators or its representatives with information requested
21 by the board or the committee in the course of an official
22 investigation.

23 B. Disciplinary proceedings may be instituted by
24 sworn complaint by any person, including a board or committee
25 member, and shall conform with the provisions of the Uniform

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1 Licensing Act.

2 C. Licensees and certificate holders shall bear the
3 costs of disciplinary proceedings unless exonerated.

4 D. Any person filing a sworn complaint shall be
5 immune from liability arising out of civil action if the
6 complaint is filed in good faith and without actual malice.

7 E. Licensees whose licenses are in a probationary
8 status shall pay reasonable expenses for maintaining
9 probationary status, including but not limited to laboratory
10 costs when laboratory testing of biological fluids or
11 accounting costs when audits are included as a condition of
12 probation. "

13 Section 18. Section 61-5A-25 NMSA 1978 (being Laws 1994,
14 Chapter 55, Section 25) is amended to read:

15 "61-5A-25. PROTECTED ACTIONS AND COMMUNICATIONS. --

16 A. No member of the board or the committee or any
17 ad hoc committee appointed by the board or the committee shall
18 bear liability or be subject to civil damages or criminal
19 prosecutions for any action undertaken or performed within the
20 proper functions of the board or the committee.

21 B. All written and oral communication made by any
22 person to the board or the committee relating to actual or
23 potential disciplinary action, which includes complaints made
24 to the board or the committee, shall be confidential
25 communications and are not public records for the purposes of

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1 the Public Records Act. All data, communications and
2 information acquired, prepared or disseminated by the board or
3 the committee relating to actual or potential disciplinary
4 action or ~~in~~ its investigation of complaints shall not be
5 disclosed except to the extent necessary to carry out the
6 purposes of the board or the committee or in a judicial appeal
7 from the actions of the board or the committee or in a referral
8 of cases made to law enforcement agencies, national database
9 clearinghouses or other licensing boards.

10 C. Information contained in complaint files is
11 public information and subject to disclosure when the board or
12 the committee acts on a complaint and ~~it~~ issues a notice of
13 contemplated action or reaches a settlement prior to the
14 issuance of a notice of contemplated action.

15 D. No person or legal entity providing information
16 to the board or the committee, whether as a report, a complaint
17 or testimony, shall be subject to civil damages or criminal
18 prosecutions. "

19 Section 19. Section 61-5A-26 NMSA 1978 (being Laws 1994,
20 Chapter 55, Section 26) is amended to read:

21 "61-5A-26. FUND ESTABLISHED. --

22 A. There is created in the state treasury the
23 "board of ~~[dental health care]~~ dentistry fund".

24 B. All ~~[funds]~~ money received by the board and
25 money collected under the Dental Health Care Act shall be

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1 deposited with the state treasurer. The state treasurer shall
2 credit this money to the board of dentistry fund except money
3 collected for the impaired assessment, which shall be held
4 separate from the board fund. Fees collected by the board from
5 fines shall be deposited in the board of [~~dental health care~~]
6 dentistry fund and, at the discretion of the board and the
7 committee, may be transferred into the impaired dentists and
8 dental hygienists fund.

9 C. Payment out of the board of [~~dental health care~~]
10 dentistry fund shall be on vouchers issued and signed by the
11 secretary-treasurer of the board upon warrants drawn by the
12 department of finance and administration in accordance with the
13 budget approved by that department.

14 D. All amounts paid into the board of [~~dental~~
15 ~~health care~~] dentistry fund are subject to the order of the
16 board and are to be used only for meeting necessary expenses
17 incurred in executing the provisions and duties of the Dental
18 Health Care Act. All money unused at the end of any fiscal
19 year [~~remains~~] shall remain in the fund for use in accordance
20 with provisions of the Dental Health Care Act.

21 E. All funds that have accumulated to the credit of
22 the [~~dental~~] board under any previous law shall be continued
23 for use by the board in administration of the Dental Health
24 Care Act. "

25 Section 20. Section 61-5A-30 NMSA 1978 (being Laws 1994,

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1 Chapter 55, Section 42, as amended) is amended to read:

2 "61-5A-30. DELAYED REPEAL. --The New Mexico board of
3 [~~dental health care~~] dentistry is terminated on July 1, [2003]
4 2009 pursuant to the Sunset Act. The board shall continue to
5 operate according to the provisions of the Dental Health Care
6 Act and the Impaired Dentists and Dental Hygienists Act until
7 July 1, [2004] 2010. Effective July 1, [2004] 2010, the Dental
8 Health Care Act and the Impaired Dentists and Dental Hygienists
9 Act are repealed. "

10 Section 21. Section 61-5B-2 NMSA 1978 (being Laws 1994,
11 Chapter 55, Section 31) is amended to read:

12 "61-5B-2. DEFINITIONS.--As used in the Impaired Dentists
13 and Dental Hygienists Act:

14 A. "board" means the New Mexico board of [~~dental~~
15 ~~health care~~] dentistry;

16 B. "dental hygienists committee" means the New
17 Mexico dental hygienists committee [~~of the New Mexico board of~~
18 ~~dental health care~~];

19 C. "dentistry or dental hygiene" means the practice
20 of dentistry or dental hygiene; and

21 D. "licensee" means a dentist or dental hygienist
22 licensed by the board. "